



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

September 10, 1999

The Honorable Joe Barton, Chairman  
Subcommittee on Energy and Power  
Committee on Commerce  
United States House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for the opportunity to appear before your Subcommittee on July 21, 1999, to discuss the important issues regarding reauthorization of the Nuclear Regulatory Commission. We appreciate the opportunity to provide input on H.R. 2531.

I am enclosing the NRC responses to post-hearing questions. Please contact me if I can be of further assistance.

Sincerely,

  
Greta Joy Dicus

Enclosure:  
As Stated

cc: Representative Ralph M. Hall

QUESTION 1.

A recent NRC press release states that the "security program will be incorporated into the NRC's baseline inspection program when it is fully implemented early next year." My understanding was that the program is suspended as part of the baseline inspections until a new rule-making is completed.

(A) Is that correct?

ANSWER.

No, a security inspection program similar to the NRC's long standing regional inspection program continues to be an integral part of the baseline inspection program.

The ongoing OSRE inspections will continue to require licensees to demonstrate the response capability of their security organizations, including force-on-force exercises, as planned. At present, the last OSRE is scheduled for May 2000. The staff, with stakeholder involvement, is exploring options to continue the evaluation of licensee demonstration of contingency response capabilities during the period between completion of the OSREs and issuance of the final rule, whenever that occurs, and plans to forward its recommendation on these options to the Commission in September 1999. This transition plan will ensure force-on-force exercises continue following May 2000 through the completion of the rulemaking.

In a letter dated August 31, 1999, the Nuclear Energy Institute (NEI) commented on the new rulemaking you mentioned. In its letter, NEI informed the Commission that the industry is preparing a guidance document for a pilot program that could be implemented in mid-2000

QUESTION 1.(A). (Cont.)

when acceptable to both the NRC staff and the industry. Key elements of the NEI pilot program guidance include identifying target sets based on a goal of preventing a radiological release that exceeded 10 CFR Part 100 criteria, force-on-force drills and exercises, tools for evaluating the effectiveness of drills and exercises, and a process for correcting deficiencies. The Commission intends to consider the viability of the industry proposal within the framework of the staff's September 1999 recommendation to the Commission.

QUESTION 1.

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(B) When do you expect the rule to be finished?

ANSWER.

The NRC staff has proposed -- and the Commission has approved -- an aggressive rulemaking schedule to amend Part 73 to require periodic contingency be an integral part of the baseline inspection program. The rulemaking is currently expected to follow this schedule:

September 17, 1999	- rulemaking plan to Commission
March 31, 2000	- proposed rulemaking to Commission
May 2000	- 60 day public comment period
December 1, 2000	- final rulemaking to Commission
May 1, 2001	- final rule published

However, at a public meeting on August 11, 1999, there was significant stakeholder comment on the need for a more comprehensive Part 73 rulemaking. If the Commission agrees to broaden the rulemaking, this aggressive schedule could be delayed. Furthermore, as mentioned in the response to the previous question, the industry has proposed a goal of

developing, over a two-year period, a broader rule change and supporting industry implementing guidance.

QUESTION 1.

A recent NRC press release states that the "security program will be incorporated into the NRC's baseline inspection program when it is fully implemented early next year." My understanding was that the program is suspended as part of the baseline inspections until a new rule-making is completed.

(C) How long does rulemaking usually take?

ANSWER.

In recent years, many rulemakings have taken approximately 24 months from approval of a rulemaking plan by the Commission. However, many high priority rules have been adopted on a faster schedule. Our August 27, 1999 letter to Congressman Markey and the response to 1(B) discuss this proposed rulemaking schedule.

QUESTION 2.

(A) Will you commit to including force-on-force drills in the baseline inspections when they start, whether or not the rule-making is finished?

ANSWER.

Specific commitments at this time would be premature since the Commission has not reviewed the staff's proposal. The staff will provide options for Commission review in September 1999. NRC inspection of license-conducted force-on-force exercises is currently under discussion between NRC and its stakeholders, including the recent industry proposal to prepare a guidance document for a pilot program that includes force-on-force drills which, if found acceptable to the NRC and the industry, could be implemented in mid-2000. Whether force-on-force drills are required under the auspices of the baseline inspection program or as a continuation of the current approach to OSRE is among the options being evaluated by the staff at this time.

QUESTION 2.

(B) Will you commit to ensuring there is not a gap between the end of the OSRE drills next spring and the inclusion of drills in the baseline inspection either by continuing the OSRE program or beginning the baseline inspection drills?

ANSWER.

Specific commitments at this time would be premature since the Commission has not reviewed the staff's proposal. The staff is providing options for Commission review by September 1999 as discussed in our responses to 1 (A) and 2 (A).



QUESTION 2.

(C). Does the NRC need new legislation in order to enable you to require licensees to conduct these drills right now?

ANSWER

No, the NRC does not need new legislation in this area. Under the Atomic Energy Act of 1954, as amended (AEA), NRC has ample authority to regulate the operation of nuclear power reactors to promote common defense and security and to protect health or minimize danger to life or property. NRC exercises this authority by issuing licenses, conditions to licenses, and rules/regulations and orders. If it becomes necessary to provide NRC with reasonable assurance of adequate protection of public health and safety or common defense and security, there is no dispute that NRC has the authority under the AEA to require licensees to conduct safeguards performance exercises. However, in order to impose an enforceable requirement to conduct these exercises, NRC must issue an order, license condition, or regulation. The NRC currently believes that the proper method of implementing that authority is through the use of regulations similar to the method used by the Office of Nuclear Materials Safety and Safeguards for requiring the conduct of exercises at fuel facilities (10 CFR 73.46).

QUESTION 3.

Currently the OSRE exercises are conducted under the supervision of the NRC, with NRC contractors who are security experts advising the mock adversary force on targets and methods of attack. The modified program would be run by the licensees.

- (A) Will the licensees determine how future drills are run, and will plant security forces know what targets will be attacked?

ANSWER.

Contrary to the implications of the question, OSRE exercises are not supervised or participated in by NRC staff or contractors. The drills and scenarios are established and conducted by the licensees. The NRC and contractors do observe and evaluate the exercises. The NRC comments on the appropriateness of the test and compares NRC's independent target selection against that of the licensee's to determine the adequacy of the exercise. As part of the rulemaking effort, NRC guidance on the implementation of exercises would be published and provide acceptable ways to conduct exercises. This guidance will state that drill participants will not have knowledge of the specific targets to be used in the drill.

**QUESTION 3.**

Currently the OSRE exercises are conducted under the supervision of the NRC, with NRC contractors who are security experts advising the mock adversary force on targets and methods of attack. The modified program would be run by the licensees.

(B) If so, is that a realistic simulation of a terrorist attack?

**ANSWER.**

Yes, in the modified program, the licensees conduct the drills; therefore, the degree of realism is limited to the licensee's ability to simulate a terrorist attack. As we explained in our response to the previous question, this is how the OSRE program is currently conducted. The need for support by the contractors during the transition period following completion of the OSREs and under the new rule, once completed, will be evaluated at a later date.

QUESTION 4.

The press release also says the "NRC will likely continue to use private contractors to assist in its evaluation of the performance of its licensees during drills and exercises" (emphasis added)

- (A) Do the current NRC contractors for the OSRE program have security expertise that headquarters staff and regional inspectors do not have?

ANSWER.

Yes, the NRC contractors for the OSRE program have extensive security expertise that headquarters staff and regional inspectors do not have.

**QUESTION 4.**

The press release also says the "NRC will likely continue to use private contractors to assist in its evaluation of the performance of its licensees during drills and exercises" (emphasis added)

- (B) Do you intend to continue to use the current contractors or other contractors with equivalent security expertise?

**ANSWER.**

The staff intends to continue using the current contractor during FY2000. The need for support by the contractors during the transition period following completion of the OSREs and under the new rule, once completed, will be evaluated at a later date.

**QUESTION 4.**

The press release also says the "NRC will likely continue to use private contractors to assist in its evaluation of the performance of its licensees during drills and exercises" (emphasis added)

(C) Will the contractors continue to advise the mock adversaries on how to attack the plants?

**ANSWER.**

The NRC, through the use of staff and contractors, will continue in its approach of critiquing exercise plans and independent target development to compare licensee targets as part of the process. This also enables the licensee to conduct a more realistic exercise.

QUESTION 5.

I understand there has been some controversy over what should be the standard for success in the drills. Licensees are required to protect against "radiological sabotage."

- (A) Do you think the drills should test the licensees' ability to protect against core damage or only against major radioactive release to the atmosphere?

ANSWER.

Title 10, *Code of Federal Regulations* (CFR), Section 73.55(a) requires that licensees be able to "protect against the design basis threat of radiological sabotage." Radiological sabotage is defined in Section 73.2 as, "any deliberate act directed against a plant or transport . . . which could directly or indirectly endanger the public health and safety by exposure to radiation." Therefore, the licensees are required to protect against acts that could endanger the public health and safety.

Part 73 does not define the limits of exposure that are considered dangerous for the public health and safety, although limits of exposure are discussed in various other sections of Title 10 of the CFR. The staff is currently considering how to clarify expectations in Part 73 and better define the term "radiological sabotage," calling on standards also used in other areas of nuclear regulation, including Part 100. The systems and equipment necessary to prevent a radiological release, and therefore subject to protection by security measures, could be dependent on the release definition. During the remaining OSREs, the teams will review this issue as part of their input to the NRC's Safeguards Performance Assessment Task Force.

**QUESTION 5.**

I understand there has been some controversy over what should be the standard for success in the drills. Licensees are required to protect against "radiological sabotage."

- (B) In evaluating the drills, do you think it fair to assume that plant operators would act perfectly to prevent radioactive release, or should their performance be tested in the drills?

**ANSWER.**

NRC would expect operators to respond in accordance with training they have received in dealing with off-normal plant conditions. Operator actions need to be evaluated in as realistic a manner as practicable to simulate actual conditions. Operators are already routinely examined with respect to their response to off-normal plant conditions, regardless of the source of the condition. An important element of the proposed rulemaking and related guidance will be how to credit operator actions during an attempt at radiological sabotage. The remaining OSREs will examine the integration of the overall actions by operations and security organizations in preventing radiological sabotage.